

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE: NEW ENGLAND COMPOUNDING
PHARMACY, INC. PRODUCTS LIABILITY
LITIGATION

MDL No. 2419
Master Dkt.: 1:13-md-02419-FDS

THIS DOCUMENT RELATES TO:

All Actions

**PLAINTIFFS' MOTION FOR ENTRY OF
CASE MANAGEMENT ORDER**

NOW COME plaintiffs, through the Plaintiffs' Steering Committee, to move this Court for entry of the attached case management order, jointly submitted by the Plaintiffs' Steering Committee, the Official Committee of Unsecured Creditors and its counsel ("Official Committee"), the Chapter 11 Trustee and his counsel ("the Trustee"), and the NECC-affiliated defendants: New England Compounding Pharmacy, Inc., Ameridose, LLC, Barry J. Cadden, Lisa Conigliaro Cadden, Glenn A. Chin, Gregory Conigliaro, GDC Properties Management, LLC, Medical Sales Management, Inc., Doug Conigliaro, Carla Conigliaro, and Alaunus Pharmaceuticals Inc. ("Affiliated Defendants").

The Plaintiffs' Steering Committee negotiated this proposed order with the Official Committee, the Trustee, and the Affiliated Defendants over the past several weeks. Multiple drafts were exchanged. Many meet and confers occurred. The Plaintiffs' Steering Committee and the Official Committee granted the Affiliated Defendants' requests to have a little more time to respond to drafts with comments; the Affiliated Defendants tolerated sometimes receiving overlapping sets of comments from the Plaintiffs' Steering Committee and the Official Committee. The process took longer than expected, but the attached proposed order reflects near unanimity among these entities on a wide array of case management matters.

Where there is disagreement among the Plaintiffs' Steering Committee, the Official Committee, the Trustee, and the Affiliated Defendants, suggested or competing language is set out in brackets.

Ameridose supports the proposed case management order in its entirety. The rest of the Affiliated Defendants also support the case management order, with one qualification: the attached includes a few short phrases and one sentence that the Plaintiffs' Steering Committee suggested to the Affiliated Defendants (and asked for comments on) but that the Affiliated Defendants other than Ameridose have neither approved nor rejected. This language is underlined in the proposed order.

The CMO addresses primarily, but not exclusively, matters that concern the Affiliated Defendants. It also includes some placeholder provisions for future orders addressing settlement and mediation with defendants who are not affiliated with NECC ("Unaffiliated Defendants") and other general case management issues. The Plaintiffs' Steering Committee shared drafts of the proposed case management order with Unaffiliated Defendants in this MDL. At least one Unaffiliated Defendant participated in the meet and confer process. As the Court knows, the list of defendants in the MDL changes often; we cannot say that every defendant currently in the MDL had an opportunity to review and comment on the attached proposed order.¹ So, to be clear: the Plaintiffs' Steering Committee is *not* representing that *all* defendants have agreed to this proposed case management order.

¹ As the Plaintiff Steering Committee informed the Court during the last status conference, identifying defense counsel for pain clinics, doctors, and other defendants who were unaffiliated with NECC has been challenging. Appointing a liaison counsel for the pain clinic defendants may be appropriate, but we leave that matter for another day.

The Plaintiffs' Steering Committee will be prepared to address any questions or concerns that the Court may have about particular provisions at the next status conference. We ask, though, that if the Court finds some provisions appropriate but has questions about others, that the Court not wait until the next status conference to enter an order that addresses the unobjectionable provisions.

WHEREFORE, this motion should be granted.

Dated: June 18, 2013

/s/ Thomas M. Sobol

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Plaintiffs' Steering Committee

CERTIFICATE OF SERVICE

I, Thomas M. Sobol, hereby certify that I caused a copy of the foregoing Plaintiffs' Motion for Entry of Case Management Order and proposed case management order to be filed electronically via the Court's electronic filing system. Those attorneys who are registered with the Court's electronic filing system may access these filings through the Court's system, and notice of these filings will be sent to these parties by operation of the Court's electronic filing system.

Dated: June 18, 2013

/s/ **Thomas M. Sobol**

Thomas M. Sobol, BBO # 471770